

REMARKS/ARGUMENTS

Claims 1-3 and 6-10 stand rejected, with claims 4 and 5 objected to in the outstanding Official Action. Claims 1-3 have been cancelled without prejudice, claims 4-7, 9 and 10 amended and newly written claims 11-15 offered for consideration. Therefore, claims 4-15 are the only claims remaining in this application although a continuation application will pursue the broader coverage of original claims 1-3 and claims dependent thereon.

The Examiner's indication that the originally submitted drawings are acceptable to the U.S. PTO is very much appreciated.

The Examiner's notation that the use of the numeral 18 to identify two separate structures is very much appreciated. Applicants note that external storage is not shown in the drawings as item 18 and therefore this numeral 18 in conjunction therewith has been deleted on page 6 of the specification. In view of the above amendment, it is submitted that the specification meets all requirements of 35 USC §112.

Claim 10 is rejected under 35 USC §101 as allegedly being non-statutory subject matter. Applicants have amended claim 10 to recite "a computer program product comprising a computer readable medium containing computer readable instructions for controlling a computer." This language mirrors acceptable PTO language for such computer program product claims (see claim 1 of U.S. Patent 6,836,860 as an example of acceptable "computer program product" claims). In view of the above amendment to claim 10, there is believed no further basis for rejection under 35 USC §101 and therefore any further rejection thereunder is respectfully traversed. Newly written claim 12 is similar to claim 10, but dependent upon claim 11 (which

claim 11 is similar to claim 9 but incorporates the method limitations of claim 5 where claim 9 incorporates the method limitations of claim 4)

Claims 1-3, 6, 7, 9 and 10 stand rejected under 35 USC §102 as being anticipated by Christensen (U.S. Patent 5,752,013). While Applicants specifically traverse the Examiner's rejection of claims 1-3, 6, 7, 9 and 10, claims 1-3 have been cancelled without prejudice, claims 6 and 7 made dependent upon claim 4 and the method steps of claims 2-4 incorporated into claim 9. Accordingly, it is believed that the rejection of remaining claims 6, 7, 9 and 10 has been obviated in view of their amendment, although this will be discussed in more detail.

The Examiner's indication of allowable subject matter being contained in claims 4 and 5 is very much appreciated. Claims 4 and 5, as suggested by the Examiner, have been rewritten in independent form incorporating the limitations of claims 1-3, from which they each depend. Additionally, pending dependent claims 6-8 have been amended to depend from claim 4 and newly written claims 13-15, dependent from now independent claim 5, have been offered for consideration.

Additionally, Applicants' independent method claim 9 has been amended to include the method steps of claims 2, 3 and 4 and newly written independent method claim 11 incorporating the method steps of claims 2, 3 and 5 are offered for consideration and are believed allowable over the prior art of record. Accordingly, it is believed that claims 4-15 all incorporate the limitations of either indicated allowable claim 4 or indicated allowable claim 5 and entry and consideration of these claims is respectfully requested.

The Examiner in section 8 on page 6 of the Official Action suggests that if both claims 4 and 5 are rewritten in independent form, claim 5 will be objected to under Rule 75 as being a

substantial duplicate of claim 4. Applicants have reviewed the MPEP Section 706.03(k) and the Examiner's attention is directed to the language which is duplicated in the Official Action which states that such a double patenting rejection is appropriate only if the claims are "so close in content that they both cover the same thing, despite a slight difference in wording."

Applicants draw the Examiner's attention to the subject matter of original claim 4 and original claim 5 where claim 5 includes the further limitation "with at least one subsequent transfer giving rise to trace data even though it does not meet said predetermined trace initiating condition." This language is not contained in claim 4, either originally or as currently amended, and therefore this is a substantive further limitation on claim 5 over that of claim 4. Given that there is a difference in scope of coverage, the claims are not "substantial duplicates" and are not so close in content that they both cover the same thing. Because of the difference in claim scope, the double patenting rejection is respectfully traversed.

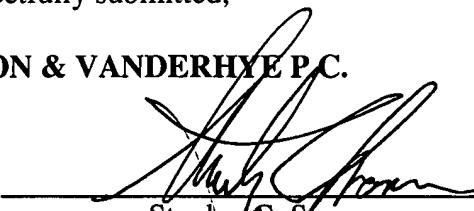
Also, it is noted that double patenting rejections are not sustainable unless the claim language is virtually identical and there is clearly no identicity of claim language in claims 4 and 5, either as originally submitted or as currently amended. Consequently, any further double patenting rejection of claim 5 over claim 4 is respectfully traversed.

Having responded to all objections and rejections set forth in the outstanding Official Action, it is submitted that remaining claims 4-15 are in condition for allowance and notice to that effect is respectfully solicited. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicants' undersigned representative.

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Respectfully submitted,

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